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August 24, 2020

Via ECF

Hon. Vera M. Scanlon, U.S.M.J.
United States District Court for the
Eastern District of New York
225 Cadman Plaza East, 1214 South
Brooklyn, New York 11201

Re: Menkes, et al. v. Board of Managers of 561 5th Street Condominium, et al.
Docket No.: 1:19-cv-3569 (MKB)(VMS)

Your Honor:

As the Court is aware, this office is counsel to Defendants Board of Managers of 561 5th Street Condominium, Alison L. Avera, Richard R. Purtich, Len Patterson Small, Tracy Breslin and Kirstin A. Purtich.

I write to follow-up concerning the parties' proposed stipulation dismissing plaintiffs' First, Second, Fourth and Eighth causes of action, which was discussed with the Court at length during the August 19th status conference. Despite the Court's involvement and helpful recommendations to both parties, at this juncture, it appears the parties have again reached an impasse and are unable to agree to terms of the proposed stipulation. The parties will continue to work to craft a proposed stipulation until 5:00 PM on Tuesday, August 25, 2020. While defendants remain committed to crafting a mutually-acceptable proposed stipulation, we believe it may be impossible in the absence of further court intervention. If the Court is amenable to providing such assistance, Defendants are willing to submit the parties' proposals under seal for the Court's consideration and additional guidance.

Given the disparate positions of the parties at this time, Defendants wish to proceed with a pre-motion conference with District Judge Brodie to set a briefing schedule for Defendants' Rule 12 (c) motion set forth in our letter dated July 28, 2020. I note further that plaintiffs have continued to ignore this Court's prior orders for disclosure, and have, to date, failed to produce any materials in response to Defendants' Requests for Production served on February 19, 2020, and therefore, we respectfully request that this Court *again* order plaintiffs to produce these long-outstanding discovery responses. I appreciate the Court's courtesy and attention to this matter.

Respectfully submitted,

ABRAMS FENSTERMAN



Randy Faust, Esq.
for Defendants

cc: **Via ECF**

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